

WASHINGTON, D.C. 20505

OGC 76-6920

6 December 1976

The Honorable Robert D. Murphy
Chairman, Intelligence Oversight Board
The White House
Washington, D.C. 20500

Dear Ambassador Murphy:

As you may know, during my confirmation hearings on 23 June 1976 I had the following exchange with Senator Inouye, the Chairman of the Senate Select Committee on Intelligence:

The Chairman. Under Executive Order 11905, the General Counsel and the Inspector General are required to report to the Intelligence Oversight Board on activities that raise questions of legality and propriety. They must report allegations involving such activities and the results of their investigations. They are also required to report any instance where they are instructed not to make such reports.

Will you instruct the General Counsel and the Inspector General to provide to this committee similar reports to aid this committee in its oversight function?

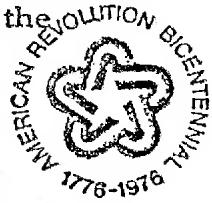
Mr. Knoche. Yes, sir, I will.

The Chairman. At present the General Counsel is required to refer to the Department of Justice allegations that activities by CIA employees violate Federal law. In order to assist the committee in its oversight role will you instruct the General Counsel to notify the committee when and if such a referral takes place?

Mr. Knoche. Yes, sir, I will.

Pursuant to this exchange and the commitments that I undertook to furnish information to the Committee, the Agency General Counsel has engaged in discussions with the Staff Director of the Committee and they have agreed on the arrangements reflected in the enclosed draft letter, which I propose to send to Senator Inouye.

Because the contemplated arrangements will require the Agency to submit to the Committee reports that are similar to those that it submits to the



Intelligence Oversight Board, I wanted to make you aware of my intentions in this regard before actually consummating the arrangements with the Committee. I can assure you that the Agency's relations with the Intelligence Oversight Board, which in my view have been constructive, will not be impaired in any way as we continue to define our relations with the Committee.

Sincerely,

E. H. Knoche
Deputy Director

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Enclosure

OGC: AAL: lsh

Original - Addressee (12/6/76)

1 - DDCI
1 - ER via Ex Secty
1 - OLC
1 - IG
1 - OGC

The Honorable Daniel K. Inouye
Chairman, Select Committee on
Intelligence
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As you know, Section 6(d) of Executive Order 11905 requires that Inspectors General and General Counsels within the Intelligence Community submit periodic reports to the Intelligence Oversight Board (IOB) concerning activities of their respective agencies that raise questions of legality or propriety. It is the function of the IOB to consider these reports and make any appropriate reports of its own to the Attorney General or the President. Further, it is the responsibility of senior Intelligence Community officials under Section 4(a)(5) of E.O. 11905 to report possible violations of federal law to the Attorney General. That requirement is related to the obligations imposed on heads of all Executive departments and agencies by 28 U.S.C. §535.

At my confirmation hearing on 23 June 1976, you asked in effect whether the Agency would be willing to make available to your Committee reports similar to those submitted to the IOB or the Attorney General in respect of Agency activities that raise questions of legality or propriety or possible law violations. I answered in the affirmative. In line with that exchange, I propose the following arrangements: Within a month after any report has been furnished to the IOB by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported to the Attorney General, involving possible law violations, the Agency's

General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without, however, identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarter.

I believe that these arrangements will serve the Committee's oversight needs without infringing on other legitimate interests that should properly be taken into account. So far as concerns the items reported to the IOB, it seems to me that a 30-day period is the minimum that should be allowed for executive consideration before involving the Congress, especially in view of the fact that the reporting threshold under Section 6(b) of E.O. 11905 is crossed when serious questions of legality or propriety appear, prior even to final determinations and resolutions of the issues raised by the particular activities. So far as concerns the matters reported to the Attorney General, there are considerations having to do both with fairness to the individuals involved, as to whom reports may be made on the basis of mere possibilities that they committed some offense, and with the integrity of any investigations that may be conducted by the Department of Justice pursuant to our reports.

The proposed arrangements have already been discussed by the Agency's General Counsel and [redacted], but I would be pleased to discuss them further at your convenience should you desire.

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